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In The
Supreme Court of the United States

THEODORE KOZIOL and LOIS KOZIOL,

Petitioners,

vs.

BOMBARDIER-ROTAX GmbH MOTORENFABRIK; KODIAK RESEARCH, LTD.; ROTECH RESEARCH CANADA, LTD., a/k/a KODIAK RESEARCH CANADA, LTD.; AERO DISTRIBUTION LIMITED; AERO DISTRIBUTION INTERNATIONAL LIMITED; and PASCAL RONVEAUX,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. a. *Whether a regional circuit court of appeals, in an appeal from a final judgment by a transferee district court, can provide appellate relief involving a pre-transfer ruling by a transferor district court located in another regional circuit?*

(The United States Court of Appeals for the Eleventh Circuit has answered this Question in the negative, as has the United States Court of Appeals for the Tenth Circuit. The United States Courts of Appeals for the Second, Fifth, Sixth, and Ninth Circuits have answered this Question in the affirmative.)

b. *If (a) is answered in the affirmative, which view of "stream of commerce" in Asahi Metal is to be applied to the issue of specific personal jurisdiction?*

(The United States Courts of Appeals for the First, Sixth, and Eleventh Circuits have applied Justice O'Connor's four-justice plurality opinion, while the United States Court of Appeals for the Eighth Circuit has applied both Justice Brennan's four-justice concurring opinion and Justice Stevens' three-justice concurring opinion, and the United States Courts of Appeals for the Third, Fifth, and Ninth Circuits have avoided having to follow any specific one of the three opinions in *Asahi Metal*.)

2. *Whether the reasonableness analysis under Asahi Metal, a specific personal jurisdiction case, applies to a case asserting general personal jurisdiction; and if so, whether the defendant has any burden of proof?*

QUESTIONS PRESENTED – Continued

(The United States Court of Appeals for the Eleventh Circuit has answered the initial Question in the affirmative, and the second in the negative. The United States Courts of Appeals for the Second, Fourth, Eighth, and Ninth Circuits have answered the initial Question in the affirmative, although the Ninth Circuit answers the second Question in the affirmative, while the Eighth Circuit answers in the negative.)

LIST OF ALL PARTIES IN COURT BELOW

Individuals:

Theodore Koziol

Lois Koziol

Pascal Ron[illegible]aux

Business Entities:

Bombardier-Rotax GmbH Motorenfabrik

Kodiak Research, Ltd.

Rotech Research Canada, Ltd., a/k/a Kodiak Research Canada, Ltd.

Aero Distribution Limited

Aero Distribution International Limited

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
LIST OF ALL PARTIES IN COURT BELOW	ii
TABLE OF AUTHORITIES	vii
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	2
REASONS FOR GRANTING THE WRIT	11
I. A. THE CIRCUITS ARE SPLIT ON APPELLATE REVIEW OF A PRE-TRANSFER RULING BY A TRANSFEROR DISTRICT COURT LOCATED IN A DIFFERENT REGIONAL CIRCUIT	11
B. IF THE PRE TRANSFER JURISDICTIONAL RULING IS APPEALABLE AFTER TRANSFER, IT IS TIME TO CLARIFY WHICH APPROACH IN *ASAHI METAL* TO "STREAM OF COMMERCE" APPLIES IN SPECIFIC PERSONAL JURISDICTION CASES	15
II. IT IS TIME TO CLARIFY WHETHER THE ANALYSIS OF GENERAL PERSONAL JURISDICTION INCLUDES THE *ASAHI METAL* APPROACH AND IF SO TO RESOLVE THE SPLIT IN THE CIRCUITS ON BURDEN OF PROOF	22
CONCLUSION	28

TABLE OF CONTENTS – Continued

Page

APPENDIX A – Opinion and Judgment of the United States Court of Appeals for The Eleventh Circuit 1a

APPENDIX B – Order of District Court for the Southern District of Florida Dismissing Complaint 9a

APPENDIX C – Order of the United States Court of Appeals for the Eleventh Circuit Dismissing Parts of Appeal Involving Jurisdictional Ruling by United States District Court for the District of New Jersey 15a

APPENDIX D – Opinion of District Court for the District of New Jersey Modifying Order and Transferring Case to Southern District of Florida 17a

APPENDIX E – Memorandum Opinion of District Court for the District of New Jersey Dismissing Complaint 20a

APPENDIX F – Denial of Petition for Panel Rehearing, by United States Court of Appeals for the Eleventh Circuit 40a

APPENDIX G – Constitutional and Statutory Provisions Involved 41a

APPENDIX H – Bombardier-Rotax GmbH International Aircraft Engine Distribution Agreement [extract] 44a

APPENDIX I – Deposition of Josef Furlinger [extract] 52a

APPENDIX J – Deposition of Phillip John Lockwood [extract] 73a

TABLE OF CONTENTS – Continued

Page

APPENDIX K – Deposition of Pascal Ronveaux [extract] 83a

APPENDIX L – Affidavit of Alan J. Burrows [extract] 90a

APPENDIX M – Deposition of Ronald Lavon Smith [extract] 93a

APPENDIX N – Declaration of Daniel B. Barks [extract] 95a

APPENDIX O – Declaration of BMW of North America, LLC 97a

APPENDIX P – Declaration of Sheri Stern 99a

APPENDIX Q – List of Florida Bombardier Dealers 101a

APPENDIX R – United States Patent & Trademark Office, registration of word mark "Bombardier Rotax" and design 103a

APPENDIX S – Circular Letter: 19/98 ..... 105a

APPENDIX T – Statement of Party Representatives to NTSB Investigation 107a

TABLE OF AUTHORITIES

Page

CASES:

American Fidelity Fire Ins. Co. v. United States Dist. Ct., N.D. Calif., 538 F.2d 1371 (9th Cir. 1976) 14

Amoco Egypt Oil Co. v. Leonis Navigation Co., Inc., 1 F.3d 848 (9th Cir. 1993) 27

Asahi Metal Industry Co., Ltd. v. Superior Court of Calif., Solano Co., 480 U.S. 102 (1987) ..... *passim*

Astarte Shipping Co. v. Allied Steel & Export Svc., 767 F.2d 86 (5th Cir. 1985) 14

AutoNation, Inc. v. Whitlock, 276 F.Supp.2d 1258 (S.D.Fla. 2003) 24

Barone v. Rich Bros. Interstate Display Fireworks Co., 25 F.3d 610 (8th Cir. 1994) 17, 22

Base Metal Trading, Ltd. v. OJSC "Novokuznetsky Aluminum Factory", 283 F.3d 208 (4th Cir.), *cert. denied*, 537 U.S. 822 (2002) 26

Boit v. Gar-Tec Products, 967 F.2d 671 (1st Cir. 1992) 16

Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985) 26

Carteret Sav. Bank v. Shushan, 919 F.2d 225 (3rd Cir. 1990) 12

Chaiken v. VV Publishing Corp., 119 F.3d 1018 (2nd Cir. 1997) 13

Equal Employment Opportunity Comm'n v. Northwest Airlines, Inc., 188 F.3d 695 (6th Cir. 1999) 13

Glencore Grain Rotterdam, B.V. v. Shivath Rai Harnarain Co., 284 F.3d 1114 (9th Cir. 2002) 26

TABLE OF AUTHORITIES – Continued

Page

Goodchild v. Bombardier-Rotax, GmbH, 979 S.W.2d 1 (Tex. App. 14th Dist. 1998) 11

Haedike v. Kodiak Research, Ltd., 814 F.Supp. 679 (N.D. Ill. 1993) 11

Helicopteros Nacionales de Columbia, S.A. v. Hall, 466 U.S. 408 (1984) 22, 23, 26, 27

Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984) 22

Kemble, In re, 776 F.2d 802 (9th Cir. 1985) 12

Koziol v. Bombardier-Rotax, GmbH, Motorenfabrik, 129 Fed. Appx. 543 (11th Cir. 2005)) 1

Lakin v. Prudential Securities, Inc., 348 F.3d 704 (8th Cir. 2003) 26, 27

Madara v. Hall, 916 F.2d 1510 (11th Cir. 1990) 16

Magnetic Engineering & Mfg. Co. v. Dings, 178 F.2d 866 (2nd Cir. 1950) 14

Metropolitan Life Ins. Co. v. Robertson-Ceco Corp., 84 F.3d 560 (2nd Cir. 1996) 26

McGeorge v. Continental Airlines, Inc., 871 F.2d 952 (10th Cir. 1989) 13

Nichols v. Paulucci, 652 So.2d 389 (Fla.App. 5th Dist. 1995) 24

Pennzoil Products Co. v. Colelli & Assoc., Inc., 149 F.3d 197 (3rd Cir. 1998) 17

Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437 (1952) 22, 23, 27

Richardson-Merrell, Inc. v. Koller, 472 U.S. 424 (1985) 12

TABLE OF AUTHORITIES – Continued

Page

Roofing & Sheet Metal Services, Inc. v. LaQuinta Motor Inns, 689 F.2d 982 (11th Cir. 1982) 13

Rosenberg Bros. & Co. v. Curtis Brown Co., 260 U.S. 516 (1923) 23

Ruston Gas Turbines, Inc. v. Donaldson Co., 9 F.3d 415 (5th Cir. 1993) 17

Shute v. Carnival Cruise Lines, 897 F.2d 377 (9th Cir.), *rev'd on other grounds*, 499 U.S. 585 (1991) 17

Simeone v. Bombardier-Rotax, GmbH, 360 F.Supp.2d 665 (E.D. Pa. 2005) 11

Stelly v. Employers Nat'l Ins. Co., 431 F.2d 1251 (5th Cir.), *cert. denied*, 401 U.S. 908 (1971) 12

Stringfellow v. Concerned Neighbors in Action, 480 U.S. 370 (1987) 12

Tel-Phonic Services, Inc. v. TBS Int'l, Inc., 975 F.2d 1134 (5th Cir. 1992) 13

Thomas v. Bombardier-Rotax Motorenfabrik, GmbH, 869 F.Supp. 551 (N.D. Ill. 1994) 11

Tobin v. Astra Pharmaceutical Products, Inc., 993 F.2d 528 (6th Cir. 1993) 16

United States Fire Ins. Co. v. American Family Assur. Co., 787 F.2d 438 (8th Cir. 1986) 12

Universal Caribbean Establishment v. Bard, 543 So.2d 447 (Fla.App. 4th Dist. 1989) 24

White v. Bombardier Corp., 313 F.Supp.2d 1295 (N.D. Fla. 2004) 11

World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980) 17, 23

TABLE OF AUTHORITIES – Continued

Page

FEDERAL CONSTITUTION:

U.S. Const. amend V 2

U.S. Const. amend XIV, §1 2

STATUTES:

28 U.S.C. §1254(1) (1988) 2

28 U.S.C. §1291 (1988) 2

28 U.S.C. §1294(1) (1988) 2

FLA. STAT. §48.193(2) 2, 24

RULES:

SUP. CT. R. 12.6 3

SUP. CT. R. 13.4 2

11th Cir.R. 40-3 2

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Petitioners, Theodore Koziol ("Dr. Koziol") and Lois Koziol, respectfully pray that a Writ of Certiorari be issued to review the judgment of the United States Court of Appeals for the Eleventh Circuit rendered in this case on April 22, 2005, on which rehearing was denied on August 17, 2005.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit filed April 22, 2005 is not officially reported, but does appear at 129 Fed. Appx. 543 (11th Cir. 2005), and is reproduced in Appendix A to this Petition beginning on page 1a. The opinion of the United States District Court for the Southern District of Florida filed March 27, 2004, dismissing the Complaint is unreported and is reproduced in Appendix B to this petition, beginning at page 9a. The Order of the United States Court of Appeals for the Eleventh Circuit dismissing the part of the appeal seeking review of the jurisdictional ruling of the United States District Court for the District of New Jersey is unreported, and is reproduced in Appendix C to this Petition, beginning on page 15a. The opinion of the United States District Court for the District of New Jersey, filed May 22, 2003, modifying its dismissal order and transferring the case to the Southern District of Florida, is unreported and is reproduced in Appendix D to this Petition, beginning at page 17a. The opinion of the United States District Court for the District of New Jersey dated April 24, 2004, dismissing the Complaint, is unreported and is